IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO.384 of 2005

Between:

P. Balaswamy, S/o. Late Veeraiah,
R/o. 1-1-500/A, 4th ward, Nehru Nagar, Suryapet, Nalgonda District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Bus Depot, Miryalaguda, Nalgonda District.
2 The Depot Manager, APSRTC, Bus Depot, Kodad, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of writ of certiorari quash the impugned punishment of deferring annual increments for a period of (6) months with cumulative effect vide proceedings No.P2/1(101)/95-MLG dt. 30.11.1995 as arbitrary, in violation of reg. 12(2) of APSRTC, C.C.A Reg. 1967 and direct the 2nd respondent to restore the deferred increments along with all consequential benefits.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondent Nos.1 and 2: MR.V.T.M.PRASAD

The Court at the admission stage made the following Order:

The petitioner was working as a Conductor in the respondent-Corporation. He was issued a charge sheet on 22.09.1995 and after receiving the explanation of the petitioner, final orders were passed on 30.11.1995 imposing the punishment of postponement of annual increment for a period of six months with cumulative effect. The petitioner questioned the order on the ground that though the postponement of annual increment for a period of six months, with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 9 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on

the petitioner is treated as postponement of annual increment for a period of six months without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed postponement of annual increment for a period of six months without cumulative effect.

The writ petition is accordingly disposed of with the above observation. No costs.

20.01.2005

usd

To

1 The Depot Manager, APSRTC, Bus Depot, Miryalaguda, Nalgonda District.
2 The Depot Manager, APSRTC, Bus Depot, Kodad, Nalgonda District.

3. Two CD copies.